

FILED

UNITED STATES COURT OF APPEALS

MAR 10 2008

FOR THE NINTH CIRCUIT

MOLLY DWYER, ACTING CLERK
U.S. COURT OF APPEALS

ANIMAL PROTECTION AND RESCUE
LEAGUE and DOROTA VALLI,

Plaintiffs - Appellant,

v.

THE STATE OF CALIFORNIA, THE
CITY OF SAN DIEGO DEPARTMENT
OF PARKS AND RECREATION, et al.

Defendants - Appellees

No. 08-55319

D.C. No. 07-CV-2320-JM
Southern District of California,
San Diego

ORDER

Before: T.G. NELSON, TASHIMA and BYBEE, Circuit Judges.

We have reviewed appellants' emergency motion and motion to consider new evidence, the response filed by the City of San Diego, appellants' reply and the record in this matter. Appellants' motion to consider new evidence is granted. Appellants' emergency motion for injunctive relief pending disposition of this appeal is granted. Application of state law or any state court order to prevent placement of a guideline rope on the La Jolla Children's Pool Beach is stayed pending further order of the court. A guideline rope may be placed on the beach to protect seals and their pups until May 30, 2008.

nmg/MOATT

08-55319

The court *sua sponte* extends the time for the Attorney General of the United States to respond to the court's March 6, 2008 order. The Attorney General of the United States is invited to file a letter brief in this appeal, no later than Monday, March 24, 2008, expressing the views of the United States on the issues of abstention and federal preemption raised by this appeal.

The court *sua sponte* expedites this appeal. The opening brief is due April 7, 2008; the answering brief is due April 28, 2008; and the optional reply brief is due May 5, 2008.

The provisions of Ninth Circuit Rule 31-2.2(a) shall not apply to this appeal. Written motions for further extensions of time to file the briefs will not be granted absent demonstration of extraordinary and compelling circumstances. *See* 9th Cir. R. 31-2.2(a). Each brief shall be received in the office of opposing counsel at the time the brief is due in this court. The parties are reminded that Ninth Circuit Rule 31-2.1(a) applies.

The Clerk shall calendar this case during the month of June 2008, in Pasadena, California.